

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

19-CR-227-LJV

JOSEPH BONGIOVANNI,

Defendant.

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**UNOPPOSED MOTION FOR AN ORDER TO  
DISCLOSE TAX RETURN INFORMATION DURING DISCOVERY**

THE UNITED STATES OF AMERICA, by and through its attorneys, Trini E. Ross, United States Attorney for the Western District of New York, Joseph M. Tripi, Casey L. Chalbeck, and Nicholas T. Cooper, Assistant United States Attorneys, of counsel, and Jordan Dickson, Trial Attorney, United States Department of Justice, Public Integrity Section, of counsel, hereby moves for entry by this Court of an order permitting the disclosure of federal tax information in discovery.<sup>1</sup>

Section 6103 of the Internal Revenue Code provides that the government may not disclose tax return information except, among other things, to comply with discovery in criminal trials. The defendant is entitled to discovery that includes tax records obtained

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<sup>1</sup> On April 26, 2023, the government previously moved to (1) introduce the defendant's tax records at trial and (2) for an order permitting disclosure of the defendant's tax records. See Govt.'s Combined Pre-Tr. Mem. & Mots. in *Limine* at 217–20, ECF No. 441, (dated Apr. 26, 2023). Granting the instant motion would moot the government's motion to disclose in ECF No. 441. The government's motion to introduce the defendant's tax records at trial, however, would remain pending even if the Court authorizes the disclosure of tax records to the defendant.

directly from the Internal Revenue Service.<sup>2</sup> Accordingly, the government respectfully requests an order permitting the disclosure of this return information. The government conferred with the defendant's counsel regarding this motion and proposed order, and the defendant consents to the filing of the motion and entry of the proposed order, which is attached as Exhibit 1.

Section 6103 of the Internal Revenue Code generally proscribes the disclosure of tax returns and tax return information. *See* 26 U.S.C. § 6103(a). "Returns" and "return information" under this section include, among other things, tax returns and supporting schedules as well as information furnished to the IRS regarding the determination of tax liability. *See* 26 U.S.C. §§ 6103(b)(1)&(2). Section 6103 permits the government to disclose return information in federal proceedings, however, to comply with its discovery obligations. Specifically, § 6103(h)(4)(D) provides that disclosure is appropriate "to the extent required by order of a court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure, such court being authorized in the issuance of such order to give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title." *See* 26 U.S.C. § 6103(h)(4)(D). Accordingly, the government respectfully requests an order authorizing the

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<sup>2</sup> The government and its witness, FBI Forensic Accountant Stephanie Bifano, presented both prior and current defense counsel a reverse financial proffer that relied, in part, on tax records. Though the government believes that the statute already authorizes the government to disclose tax records obtained directly from the Internal Revenue Service to the defendant, it makes the instant motion in an abundance of caution due to the civil penalties associated with unauthorized disclosure.

disclosure of tax returns and tax return information to the defendant and his counsel. *See* 26 U.S.C. § 6103(h)(4)(D).

DATED: Buffalo, New York, January 18, 2024

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## Exhibit 1

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**ORDER PERMITTING DISCLOSURE OF TAX RETURN INFORMATION**

Upon motion of the government requesting an order authorizing the disclosure of tax return information, it is hereby

**ORDERED** that the government may disclose federal tax returns and return information necessary to comply with its discovery obligations in this case.

**SO ORDERED** this \_\_\_\_ day of January, 2024.

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Lawrence J. Vilardo  
United States District Judge